

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

ROBERT COSTELLOE, DEBORAH
COSTELLOE, LIFETIME ROOFING, LTD

Plaintiffs

vs.

UNITED SURETY, DANOSA METAL
ROOFING, INC., JOHN DOE

Defendants

CIVIL 97-2334CCC

RECEIVED & FILED
1999 OCT 12 PM 12:12
CLERK'S OFFICE
U.S. DISTRICT COURT
SAN JUAN, P.R.

ORDER

Presently before the Court is a Motion Requesting Reconsideration of Partial Judgment (**docket entry 39**) filed by United Surety & Indemnity Company (hereinafter USIC) and opposed by the plaintiffs (**docket entry 41**).

In its motion for reconsideration USIC requests that this Court set aside the March 31, 1999 Order (**docket entry 38**) in which partial judgment was entered for the plaintiffs. In support of his claim defendant argues that its deposit of the amount of one hundred and seven thousand eight hundred and forty one dollars with sixty three cents (\$107,841.63) was not made under the provisions of the Puerto Rico Civil Code relating to the consignation process, but under Rule 19 of the Puerto Rico Civil Procedure Rules.¹

Defendant's contention that it did not act pursuant to the consignation provisions contained in the Puerto Rico Civil Code is factually unsupported. A close examination of the

¹"Faced with the uncertainty of these claims USIC consigned the monies in state court prior to this filing, through an interpleader procedure that is allowed by Rule 19 of Puerto Rico's Rule of Civil Procedure of 1979, and Article 1130 of our Civil Code; 31 L.P.R.A. 3180, et seq."

CIVIL 97-2334CCC

2

complaint reveals that USIC sought to be exempted from liability by specifically relying on said provisions.²

Therefore, in view of the foregoing USIC's Motion for Reconsideration of Partial Judgment (**docket entry 39**) is hereby DENIED.

SO ORDERED

At San Juan, Puerto Rico, on October 8, 1999.



CARMEN CONSUELO CEREZO
United States District Judge

²The request contained in the complaint filed before the court of First Instance, San Juan Part, specifically stated that United Surety & Indemnity Company sought to be relieved from its liability pursuant to Article 1133 of the Puerto Rico Civil Code (31 L.P.R.A. §3183). Emphasis provided. Also, an examination of the complaint reveals that the action was titled "Consignment."